

## **Remarks**

The applicant presents the following remarks as a full response to the outstanding Office Action. The applicant submits that no new matter has been added to the claims and that all amendments are clearly supported in the specification. The applicant respectfully requests the Office's careful consideration of the arguments presented in this response in light of the amended claims. Based on the art that has been cited, the applicant respectfully submits that the claims are allowable and such action is requested of the Office.

Because claims 12-15 have been canceled, the applicant submits that the rejections in the Detailed Action directed toward those claims are moot and, therefore, have not been addressed in the present response.

### **Claim Rejections – 35 U.S.C. § 112**

At page 4 of the Detailed Action, the Office has rejected claim 5 under the second paragraph of 35 U.S.C. 112 declaring that the claim fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Office asserts that the recited limitation of “the loan” has insufficient antecedent basis. Directing the Office's attention to the amended claims, independent claim 3 has been amended such that the claim 5 limitation now has a clear antecedent. Accordingly, the applicant submits that dependent claim 5 is in condition to be considered for allowance and respectfully requests the Office to withdraw the rejection.

### **Claim Rejections – 35 U.S.C. § 103**

Beginning at page 4 of the Detailed Action, each pending claim of the present disclosure is rejected per 35 U.S.C 103(a) on the grounds of being obvious. The Office submits that the subject matter recited in claims 3-5, 7-8 and 11 is obvious under a combination of Macias (U.S. 2002/0116324) taken in view of Kjonaas et al. (U.S. 2001/0007332) and further in view of various combinations of Lawlor et al. (U.S. 6,202,054), Liebermann (U.S. 7,287,009), INGdirect.com (web.archive.org, October 10, 2002) and Risafi et al. (U.S. 6,473,500). Further, the Office maintains beginning at page 11 of the Detailed Action that the subject matter recited in claims 12-19 is obvious when the art of Weiss et al. (U.S. 5,866,889) is taken in view of various combinations of Vasic (of record), Kjonaas (of record), the Palm Beach Post (1999) and

an Official Notice. The applicant has reviewed the arts and amended the claims and respectfully submits that the subject matter recited in the present claims is not fully anticipated, or rendered obvious, by any combination of the aforementioned arts.

**With regards to independent claim 3**, the claim has been amended in an effort to reduce confusion between the various recited accounts, i.e. the funded financial account (which is being created by the method) and the existing direct deposit account. More specifically, to distinguish the accounts, the funded financial account is now recited as a “first” account and the direct deposit account is now recited as a “second” account. In making such amendments, the applicant has not added any new or unsupported matter but, rather, seeks only to recite the subject matter as clearly as possible so that one skilled in the art may easily discern the nature and role of each account within the novel method.

Courteously directing the Office’s attention to independent claim 3 in its presently amended form, the recited subject matter is not fully anticipated by any combination of the prior art. As such, the applicant stands forth that no combination of the prior art relied upon by the Office operates to meet the threshold burden of establishing a prima facie case of obviousness. In particular, no combination of the prior art can be shown to anticipate at least the following recited elements:

- 1) creating a [first] *funded* financial account; and
- 2) collateralizing a loan resulting from the line of credit with existing funds from a [second] direct deposit account.

The first, general step of the claim 3 method recites “creating a first funded financial account” by further means of subsequently recited steps. To anticipate this recited subject matter, the Office points to Macias at paragraph [0013] but does not specifically state which of Macias’s described accounts are allegedly anticipatory of the recited “first funded financial account.” At paragraph [0013], and indeed throughout the entire Macias disclosure, Macias only describes checking accounts, savings accounts, and unsecured credit accounts (suggested to be associated with Macias’s teaching of an extended line of credit). Regardless, the applicant submits that none of the accounts disclosed by Macias anticipate the recited element.

If the Office is relying upon Macias’s checking and/or savings accounts to suggest that the creation of the recited first funded financial account is anticipated, the applicant respectfully disagrees. Granted, the applicant understands that it is inherently suggested that the checking

and savings accounts described by Macias are funded. Macias, however, does not describe, suggest or teach in connection with the funded checking or savings accounts that the method of creating those accounts includes *any* of the subsequent steps recited in claim 3. The claim 3 method recites *creating* a first funded financial account and, therefore, in addition to showing that Macias teaches a funded financial account, the Office must show that Macias teaches at least one step directed toward the creation of the funded financial account.

Macias is silent with regards to any steps taken in connection with creation of the checking and savings accounts. Therefore, on its face, Macias's description of checking and savings accounts cannot be anticipatory of any portion of the recited method directed to the *creation* of the first funded financial account. Moreover, to the extent Macias may teach some of the subsequently recited account creation steps, none of those steps are taught in association with the checking or savings accounts and, as such, it would not be suggested to one skilled in the art of Macias to modify the checking or savings accounts to include creation by any of those steps. Additionally, because none of the subsequent account creation steps allegedly taught by Macias are taught in connection with the checking or savings accounts, it cannot be shown that one skilled in the art would be motivated to amend the untaught creation of those accounts with steps taken from analogous arts. Clearly, if the Office is relying upon Macias's checking and savings accounts to anticipate the recited step of creating a funded financial account, the threshold burden of establishing a prima facie case of obviousness cannot be met.

If, on the other hand, the Office is relying upon the suggested account associated with Macias's extended line of credit, the applicant also disagrees that such account anticipates the recited first funded financial account. Notably, the recited first *funded* financial account is expressly recited as *funded*. Any account suggested to be associated with Macias's extended line of credit is not described, suggested or taught to be funded and, in fact, the applicant submits that Macias' description of a line of credit and/or "credit card" (please see Macias at least at Abstract) without mention of collateral would suggest to one skilled in the art that Macias's credit account is unsecured. Therefore, logically, any account associated with Macias's line of credit is suggested to comprise no funds – only unsecured debt. As such, if the Office is relying upon Macias's suggested credit account to anticipate the recited first *funded* financial account, the Office's burden of establishing a prima facie case of obviousness cannot be met.

Also, the now more clearly recited subject matter directed at collateralizing a loan resulting from the line of credit with existing funds from a [second] direct deposit account is not anticipated by any combination of the prior art. Again, Macias teaches an unsecured line of credit that can be tapped by the consumer after certain funds in checking and/or savings accounts are depleted. Macias does not describe, suggest or teach that existing funds in any account may be earmarked as collateral against the extension of the line of credit, as is claimed. In fact, Macias's teaching that the checking and/or savings accounts (which are the only funded accounts described in Macias) are only drawn upon *prior* to the extension of any credit is a clear teaching away from using any of those funds as collateral for the credit. To wit, one skilled in the art of banking would understand that funds earmarked as collateral for a line of credit should never be depleted prior to the extension of a loan from the line of credit; otherwise, the extended credit would have no collateral.

Therefore, for at least the reasons outlined above, the subject matter recited in presently amended independent claim 3 is not fully anticipated, or rendered obvious, by any combination of the recited art. A prima facie case of obviousness cannot be established based on any combination of the prior art and, as such, the applicant respectfully requests the Office to withdraw the rejection and allow the claim. See *In re Oetiker*, 977 F.2d 1443, 1445 stating "...The prima facie case is a procedural tool of patent examination, allocating the burdens of going forward as between examiner and applicant...[and] the term "prima facie case" refers only to the initial examination step...[and] the examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a prima facie case of unpatentability...[and] if that burden is met, the burden of coming forward with evidence or argument shifts to the applicant...[and] if examination at the initial stage does not produce a prima facie case of unpatentability, then without more the applicant is entitled to grant of the patent. See also *In re Grabiak*, 769 F.2d 729, 733, 226 USPQ 870, 873 (Fed.Cir.1985).

**With regards to claims 4-5, 7-8 and 11**, each is a dependent claim depending directly from allowable claim 3 and, as such, is also in condition for allowance.

**With regards to independent claim 16**, the claim has been amended to more clearly recite subject matter not fully anticipated by any combination of the cited references. More particularly, the prior art relied upon by the Office cannot be shown to anticipate that:

- 1) funds residing in a stored value component may be earmarked as collateral for an obligation (e.g., loan) that results from access to a line of credit;
- 2) the customer may acquire the obligation at an interest rate lower than what would normally be commensurate with his associated credit rating; and
- 3) the customer may benefit from an improved credit score with the demonstration of a positive repayment behavior against the obligation.

For at least these reasons, a prima facie case of obviousness cannot be established under any combination of the prior art presently relied upon by the Office. Each and every recited element in the presently amended claim is not anticipated by the prior art. For support of the amendments, the Office is courteously directed to the arguments offered in the previous response. The applicant submits that the present amendments more clearly justify the previous arguments and place the claim in condition for allowance. As such, the Office is respectfully requested to reconsider its response to the previous arguments and allow the claim.

**With regards to claims 17-19**, each is a dependent claim depending directly from allowable claim 16 and, as such, is also in condition for allowance.

### **Conclusion**

For at least the reasons outlined above, the arts cited by the Office, taken alone or in combination, do not provide sufficient grounds for rejection of the present claims. Accordingly, the applicant submits that independent claims 3 and 16 are in condition for allowance. Also, each of the claims depending from claims 3 and 16 are also in condition for allowance. Therefore, the applicant respectfully requests that the Office reconsider the claims and allow all claims of the application now pending.

If the Office has any questions or if there are any actions that can be handled through an Examiner's Amendment, the applicant requests the Office to contact the attorney of record using the below-provided contact information.

Respectfully submitted,

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